

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&

THE HONOURABLE MR. JUSTICE A.K.BASHEER

THURSDAY, THE 4TH OCTOBER 2007 / 12TH ASWINA 1929

MACA.No. 103 of 2003

OPMV.19/1995 of MOTOR ACCIDENT CLAIMS TRIBUNAL, PALAKKAD

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APPELLANTS/PETITIONERS 1,3 & 4:

1. N. JAYALAKSHMI, W/O.LATE KRISHNA MOORTHY
107 ANNAPOORNA LAY OUT, NEW SIDHAPUDUR,
COIMABATORE.
2. LAKSHMI PRIYA (MINOR),
D/O. JAYALAKSHMI, 107 ANNAPOORNA LAY OUT,
NEW SIDHAPUDUR, COIMBATORE.
3. LEKHA NANDINI (MINOR),
D/O. JAYALAKSHMI, 107, ANNAPOORNA LAY OUT,
NEW SIDHAUDUR, COIMBATORE.
(MINORS 2 & 3 REPRESENTED BY THEIR GUARDIAN AND
MOTHER 1ST APPELLNT, JALAKASHMI, 107
ANNAPOORNA LAY OUT, NEW SIDHAPUDUR, COIMBATORE).

BY ADV. SRI.T.K.CHINNAN

RESPONDENTS: RESPONDENTS 1 TO 5 & PETITIONERS 5 TO 9 IN O.P.

- * 1. K.S. PALANISWAMY, S/O. SELLAYYA
MUDALIYAR, 228, KATTU VALAVA EXTENSION,
PALLADOM TALUK, THIRUPPUR. (Deleted)
2. P. SIVALINGAM, S/O. PALANISWAMY,
4 THEVAMPALAYAM CROSS ROAD,
KAMARAJ ROAD, THIRUPPUR.
3. M/S. NATIONAL INSURANCE COMPANY LTD.,
BHARATHIYAR MEMORIAL BUILDINGS,
AVANASHI ROAD, THIRUPPUR.

- * 4. KANNAYAN, S/O. J. SEDIYAN, LORRY DRIVER, DOOR NO.20, RANKAPPA NAIDU, 2ND STREET, PAPPANAIKANPALAYAM, COIMBATORE.(Deleted)
* (The names of respondents 1 & 4 are deleted from the party array at the risk of the appellant vide order dated 26.9.07 on I.A.2091/07)

5. NEW INDIA ASSURANCE COMPANY LTD.,
REGIONAL OFFICE, OBLI TOWER,
R.S. PURAM, COIMBATORE.

6. S.A. PALANISWAMY, S/O. LATE A. NAGAMMAL,
21/4, CHELLANDIAMMAN KOIL STREET,
SINGANALLUR, COIMBATORE.

7. S.A. DHANDAPANI, S/O. LATE A. NAGAMMAL,
21/4, CHELLANDIAMMAN KOIL STREET,
SINGANALLUR, COIMBATORE.

8. M. LAKSHMI, D/O. LATE NAGAMMAL, 21/4,
CHELLANDIAMMAN KOIL STREET,
SINGANALLUR, COIMBATORE.

9. S.A. GOPAL, S/O. LATE NAGAMMAL, 21/4
CHELLANDIAMMAN KOIL STREET,
SINGANALLUR, COIMBATORE.

10. S.A. SOMASUNDARAN,
AUTO DRIVER, S/O. NAGAMMAL,
21/4, CHELLANDIAMMAN KOIL STREET,
SINGANALLUR, COIMBATORE.

BY ADV. SRI.RUPESH V.R. - R6 to R10
SRI.P.JAYASANKAR - R3
SRI.KKM.SHERIF - R5

THIS MOTOR ACCIDENT CLAIMS APPEAL HAVING COME UP FOR
ADMISSION ON 04/10/2007, THE COURT ON THE SAME DAY PASSED
THE FOLLOWING:

K.S.RADHAKRISHNAN & A.K.BASHEER, JJ.

M.A.C.A.No.103 OF 2003

Dated this the 4rd day of October, 2007

JUDGMENT

Radhakrishnan, J

The appellants are the wife and children of deceased Krishnamoorthy who died in a motor accident occurred on 21.5.94. At the time of the incident, Krishnamoorthy was travelling in his lorry bearing No.TCI 5758. Another lorry bearing No.TAL 6899 came from the opposite direction dashed against the other. Tribunal found that the accident was due to the rash and negligent act of the drivers of both the lorries. The compensation amount was fixed as Rs.4,32,000/- as compensation under all heads. Further, it is ordered that the claimants are entitled to get only 50% of that amount from respondents 1 to 3 i.e., Rs.2,16,250/- because of the conclusion that the deceased was also negligent. Ext.A2 is the copy of the scene mahazar prepared by the police during investigation. Exts.A3(a) and A3(b) are the reports of the Motor Vehicle Inspector who inspected the vehicles after

the incident. The Motor Vehicle Inspector has reported that there was no mechanical defect to both the vehicles. In Ext.B1 and B2, it is specifically stated that the accident occurred due to the rash and negligent driving of both lorries by its drivers. As per Exts.B1 and B2, the accident occurred on the middle of the tar road. There is no contra-evidence to disbelieve the contents of Exts.A1, B1 and B2.

In such circumstances, we find no reason to interfere with the order passed by the Tribunal. Hence, this appeal is dismissed.

K.S.RADHAKRISHNAN, JUDGE

A.K.BASHEER, JUDGE

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